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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,899	08/07/2003	Aidan Petrie	07298.0075.NPUS01	7813
68768 7590 05/18/2010 NOVAK DRUCE AND QUIGG, LLP (Thule) 1000 LOUISIANA STREET FIFTY-THIRD FLOOR HOUSTON, TX 77002				
EXAMINER				
ARK, DARREN W				
ART UNIT		PAPER NUMBER		
3643				
MAIL DATE		DELIVERY MODE		
05/18/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/635,899

**Applicant(s)**

PETRIE ET AL.

**Examiner**

Darren W. Ark

**Art Unit**

3643

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9 and 12-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: no. 3 base portion is not shown in Fig. 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:  
Page 8, lines 16-18, the phrase "hinged connectors 6 are disposed at a rear end of the box so that the front end of the lid portion is raised when the box is in an open position" contradicts the phrase at page 7, lines 3-4, stating "an access aperture through at least the forward end of the box...aperture 5" since the access apertures (5, 8) are formed at

the front end and back end of the box respectively therefore the hinges 6 would be more correctly stated as being on one side of the box 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9, 12-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 9, lines 9-10, the phrase "a portion of the fishing rod connected to the fishing reel" is unclear since the term "a proximate portion of a fishing rod connected thereto" was previously set forth in lines 6-7. Also see line 17 for the same issue with respect to "a portion of the fishing rod positioned therein".

In regard to claim 16, line 2, the term "the bottom of said base portion" lacks positive antecedent basis.

In regard to claim 18, the term "11" in line 1 renders the claim vague and indefinite since claim 11 has been cancelled.

In regard to claim 18, lines 2-3, the term "the height of the said top portion" lacks positive antecedent basis and the phrase "the said" also renders the claim vague and indefinite.

In regard to claim 18, line 3, the term "said access apertures" lacks positive antecedent basis.

In regard to claim 21, lines 14-16, the phrase "the anchor arrangement...attached to said vehicular rack a distance away from said carrier box..." is unclear since the vehicular rack was not positively set forth as part of the desired invention and was only functionally recited

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9, 12-21 are rejected under 35 U.S.C. 102(b) as being anticipated by White et al. 2,171,053.

In regard to claim 1, White et al. discloses a carrier box (rod clamp to the right in Fig. 1) having a lid portion (22) and a base portion (14) configurable between open and closed configurations, wherein each of the portions comprise edge portions (see upper edges of 14 and lower edges of 22 in Fig. 5); the box interiorly configured to receive and support a reel and rod (see Fig. 1), the box being configured to be substantially weather-tight in the closed configuration (when 22 is clamped upon 14, windy weather cannot cause rod and reel to be blown out of the clamp; weather-tight does not particularly disclose any structure not shown or disclosed in White et al.; also the

enclosed structure shown in Figs. 2, 3, & 5 illustrates how it is possible that weather elements may be excluded from entering therein); an access aperture (see aperture defined through 14, 22 in Figs. 2, 3) configured to permit a portion of the rod to project outside the box (see Fig. 1) when in closed configuration, the access aperture is formed between the edge portions of the lid portion and base portion (see Fig. 3 especially showing the edge portions to the left and right of the strips of sponge rubber 21, 30 so as to bound the strips); a clamping arrangement configured to releasably fasten upon a vehicular carrier rack (11-13 are capable of releasable fastening to a rack, wherein 12 assists in clamping 11 to 13 by axial pressure); and a pliable buffer (21, 30) arranged within an interior of the access aperture (see Figs. 3, 5), the buffer comprising at least two mating portions (21, 30) extending across the entirety of the access aperture in the closed configuration (see Fig. 2) and adapted to form-fit about a portion of the fishing rod positioned therein (due to elasticity of strips of sponge rubber) and selectively manufactured from a material that forms a weather-resistant barrier between an interior and exterior of the carrier box in the closed configuration when a fishing rod is installed therein (the deformable nature of strips 21, 30 allows it to sealingly engage about the circumference of either the reel or rod and thus preventing weather elements such as hail or sleet or snow from entering an intermediate portion of the buffer).

In regard to claim 12, White et al. discloses a portion of the box adapted to form a stand (10) thereby accommodating use of the box as a free-standing storage arrangement for at least one rod and reel when the box is detached from a rack.

In regard to claim 13, White et al. discloses the lid and base being hinged together (16, 17, 24-26) and a seal arrangement (mutually contacting surfaces of 18, 27 and 19, 28, 29) provided between mating lip portions (18, 27) of the lid and base.

In regard to claim 14, White et al. discloses the carrier box which tapers toward a front end (see 13 which tapers in Fig. 3 or see 28, 29 in Fig. 5 which taper or see 11 in cross section which tapers).

In regard to claim 15, see Fig. 3 of White et al.

In regard to claim 16, White et al. discloses drainage holes in a bottom of the base (holes in 13 engaged by 12 or 17, 20; drainage hole structures not being particularly claimed).

In regard to claim 17, White et al. discloses at least one additional access aperture (17, 20, or space between 19 & 28; access aperture not being particularly claimed).

In regard to claim 18, White et al. discloses the anchor arrangement having a top portion (22) for securing the distal end of the rod (see Fig. 1), wherein the height of the top portion and the access aperture are of substantially the same level so that a rod is level to a roof of the vehicle when the carrier arrangement is mounted thereon (see Fig. 1).

In regard to claim 19, White et al. discloses the access aperture which forms a rectangular shape when the box is in the closed configuration (see Fig. 2).

In regard to claim 20, White et al. discloses the access aperture being sized to carry more than one rod within the aperture (the device of White et al. is intended to

hold plural rods; see col. 1, lines 11-23; fishing rods come in many different shapes and sizes and thus more smaller sized rods would be able to fit within the aperture than would larger sized rods).

In regard to claim 21, White et al. discloses a carrier box (rod clamp to the right in Fig. 1) having a lid (22) and a base (14) configured between open and closed configurations (closed configuration shown in Figs. 1, 2), the box interiorly configured to receive and support a reel and a proximate portion of the rod (area between 14 & 22 capable of receiving a reel and rod therein; no particular box structure being claimed), the box configured to be substantially weather-tight in the closed configuration (when 22 is clamped upon 14, windy weather cannot cause rod and reel to be blown out of the clamp; weather-tight does not particularly disclose any structure not shown or disclosed in White et al.); an access aperture (hollow area defined between 14 & 22) through the box, the aperture configured to permit a portion of the rod connected to the reel to project inside the box in the closed configuration (handle in Fig. 1); a clamping arrangement configured to releasably fasten upon a vehicular carrier rack (11-13 are capable of releasably fastening on a rack, wherein 12 assists in clamping 11 to 13 by axial pressure; rack is not being positively recited and furthermore structure of clamping mechanism not being claimed); and an anchor arrangement (rod clamp to the left in Fig. 1) comprising one or more concave grooves (underside interior of 22 is above 14 and upperside interior of 14 is above 11 in Fig. 5) on a top surface of the anchor arrangement which is separate from the carrier box (see Fig. 1).



7. Claims 9, 12-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Mathews 2,807,398

Mathews discloses a carrier box (left occurrence of 12 in Fig. 1 with 3, 12, 21) with a lid portion (12) and a base portion (3) configurable between open (see Fig. 7) and closed (see Fig. 1) configurations, each of the lid and base portions comprising edge portions (edges of 3, 12), the box configured to receive and support a reel and a proximate portion of a rod (space between 3 & 12) capable of receiving rod and reel therebetween and therein), the box further configured to be weather-tight in the closed configuration (when 3, 12, 38 are assembled together, then this arrangement makes it more difficult for various elements from penetrating; no particular structure being claimed); an access aperture (space defined between 3, 12) formed between the edge portions of the lid and base portions in the closed configuration; a clamping arrangement (4, 6, 7-9) to releasably fasten upon a vehicular carrier rack (2); and a pliable buffer (38) within an interior of the access aperture, the pliable buffer comprising at least two mating portions extending across the entirety of the access aperture in the closed configuration (see Figs. 2, 4).

In regard to claim 12, Mathews discloses the box (3, 12) adapted to form a stand (see Figs. 2, 3, 6; no particular structure being claimed).

In regard to claim 13, Mathews discloses the lid and base portions being hinged together for pivoting relative to one another (in Fig. 7, 12 capable of pivoting relative to 3 via 32) and a seal arrangement (portions of 38 forming seal).

In regard to claim 14, see upper edge of 3 which tapers.

In regard to claim 16, Mathews discloses drainage holes (9, 14, 36; particular drainage hole structure not being claimed).

In regard to claim 17, Mathews discloses an additional access aperture (rear entry between 3, 12).

In regard to claim 18, Mathews discloses an anchor arrangement (right occurrence of 12 in Fig. 1) with a top portion for securing the distal end of the fishing rod (see distal ends of 5 extending through right occurrence of 12), wherein the height of the top portion and the access apertures are the same level (see Fig. 1) so that a rod is level to a roof of the vehicle (see Fig. 1).

In regard to claim 19, see Fig. 2.

In regard to claim 20, see Figs. 2 and 8.

In regard to claim 21, Mathews discloses a carrier box (left occurrence of 12 in Fig. 1 with 3, 12, 21); an access aperture (space defined between 3, 12); a clamping arrangement (4, 6, 7-9); an anchor arrangement (right occurrence of 12 in Fig. 1) comprising one or more concave grooves (area defined within corners of 3, 12, 21 are concave shaped; also see manner in which pliable buffers 38 surround each rod 5 in Figs. 3, 8 and the generally concave area between 38 in Fig. 6; concave grooves not being particularly claimed).

8. Claims 9, 12-21 rejected under 35 U.S.C. 102(b) as being anticipated by Stahl 4,063,646.

Stahl discloses a carrier box (10) with a lid portion (25) and a base portion (12); an access aperture (apertures defined by 18 and between 18) formed between the edge

portions of the lid and base portions (edges of 12, 25 in Figs. 1, 2, 4, 5); a clamping arrangement (16); and a pliable buffer (34, 35) comprising at least two mating portions (34, 35) extending entirely across the access aperture (see Fig. 1, 4, or 5).

In regard to claim 14, Stahl discloses the box tapers toward a forward end thereof (see 21, 22 in Fig. 3).

In regard to claim 16, Stahl discloses drainage holes (see openings between lowermost 18 & 19 in Fig. 2).

In regard to claim 17, Stahl discloses at least one additional access aperture (pairs of 18).

In regard to claims 18 and 21, Stahl discloses an anchor arrangement (another of 10; see col. 2, lines 16-18) with one or more concave grooves (defined by 18).

In regard to claim 19, see Figs. 1, 2.

In regard to claim 20, see Fig. 1, 4, or 5.

9. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Nowicki 3,719,297.

Nowicki discloses a carrier box (32) with a lid portion (38) and a base portion (40), the box interiorly configured to receive and transport a fishing reel and rod ( ) and configured to be substantially weather-tight in the closed configuration (42, 44 assist in preventing weather elements from entering therein or therebetween; structure not being particularly claimed); an access aperture through the box (see Fig. 2); a clamping arrangement (22, 24; clamping arrangement not being particularly claimed); and an anchor arrangement (30) comprising one or more concave grooves (interior surfaces ,

including inside corners within 30, shown in Fig. 2 are generally concave in shape in order to form the receiving area for the skis or other elongated articles) on a top surface of the anchor arrangement for receiving one or more fishing rods/elongated articles (16), wherein the anchor arrangement is separate from the carrier box (32; see Fig. 1) and attachable to the rack a distance away from the box.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 9, 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. 2,171,053 in view of Snively et al. 6,015,074 or Rivenbark 6,003,748.

Alternatively White et al. does not disclose a clamping arrangement configured to releasably fasten upon a vehicular carrier rack. Snively et al. disclose a roof rack for a vehicle (10) with mounting brackets (40) to mount the rack on luggage racks (32). Rivenbark discloses a fishing rod holder (10) for cartop carriers with mounting means (40, 42', 44, 46, 58, 60, 62, 64, 72) for mounting to front and rear (14, 16) cross bars of a luggage carrier (12). It would have been obvious to one of ordinary skill in the art to substitute the clamping arrangement of either Snively et al. or Rivenbark for the suction cup mounting arrangement of White et al. in order to provide means for securely mounting the device to existing carrier/luggage racks on a vehicle.

12. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nowicki 3,719,297 in view of Snively et al. 6,015,074 or Rivenbark 6,003,748.

Alternatively Nowicki does not disclose a clamping arrangement configured to releasably fasten upon a vehicular carrier rack. Snively et al. disclose a roof rack for a vehicle (10) with mounting brackets (40) to mount the rack on luggage racks (32). Rivenbark discloses a fishing rod holder (10) for cartop carriers with mounting means (40, 42', 44, 46, 58, 60, 62, 64, 72) for mounting to front and rear (14, 16) cross bars of a luggage carrier (12). It would have been obvious to one of ordinary skill in the art to substitute the clamping arrangement of either Snively et al. or Rivenbark for the members (18, 20) with hooked portions (22, 24) for engaging lateral edges (12) of a vehicle roof (10) of Nowicki in order to provide means for securely mounting the device to existing carrier/luggage racks on a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W. Ark/  
Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA